

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TODD HOLGATE,

Plaintiff,

Case No. 23-cv-12191

Hon. Matthew F. Leitman

v.

EZ STORAGE,

Defendant.

**ORDER (1) ADOPTING RECOMMENDED DISPOSITION OF REPORT
AND RECOMMENDATION (ECF No. 5) AND (2) GRANTING
DEFENDANT’S MOTION TO DISMISS (ECF No. 2)**

On July 28, 2023, Plaintiff Todd Holgate filed this action against Defendant EZ Storage in the 35th District Court for the State of Michigan. (*See* Compl., ECF No. 1-2.) In his Complaint, Holgate claimed that he asked EZ Storage for certain accommodations under the Americans with Disabilities Act, but EZ Storage refused to provide those accommodations and then terminated his storage lease. (*See id.*) EZ Storage removed Holgate’s action to this Court (*see* Notice of Removal, ECF No. 1), and, on August 25, 2023, EZ Storage moved to dismiss Holgate’s Complaint. (*See* Mot., ECF No. 2.)

The motion was referred to the assigned Magistrate Judge. (*See* Order, ECF No. 3.) After Holgate did not file a response to EZ Storage’s motion, the Magistrate Judge ordered Holgate to file a response by September 29, 2023. (*See* Order, ECF

No. 4.) Holgate did not respond to the Magistrate Judge's order and never filed a response to EZ Storage's motion.

On November 13, 2023, the Magistrate Judge issued a Report and Recommendation in which she recommended granting EZ Storage's motion (the "R&R"). (*See* R&R, ECF No. 5.) The Magistrate Judge concluded that to the extent Holgate raised a failure-to-accommodate claim, he did not "properly allege[] any of the elements" of that claim. (*Id.*, PageID.42.) To the extent Holgate raised a retaliation claim, the Magistrate Judge concluded that because Holgate did not "state his disability" or "state his required accommodation," it was not possible to "determine whether Holgate engaged in protected activity or whether EZ Storage had knowledge" of that protected activity. (*Id.*, PageID.43-44.) The Magistrate Judge therefore recommended that the Court dismiss Holgate's Complaint. (*See id.*, PageID.44.) At the conclusion of the R&R, the Magistrate Judge informed the parties that if they wanted to seek review of her recommendation, they needed to file specific objections with the Court within fourteen days. (*See id.*, PageID.44-45.)

Holgate has not filed any objections to the R&R. Nor has he contacted the Court seeking additional time to file objections. The failure to object to an R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). Likewise, the failure to file objections to an R&R waives any further right to appeal. *See Howard v. Sec'y of Health and Human Servs.*,

932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987).

Accordingly, because Holgate has failed to file any objections to the R&R, **IT IS HEREBY ORDERED** that the Magistrate Judge's recommended disposition of EZ Storage's motion to dismiss is **ADOPTED**.

IT IS FURTHER ORDERED that EZ Storage's motion to dismiss (ECF No. 2) is **GRANTED**.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: December 15, 2023

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 15, 2023, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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